

No. 8j

Belize Telecommunications

211



No. 8 of 2011

I assent,

(SIR COLVILLE N. YOUNG)
Governor-General

4th July, 2011.

AN ACT to amend the Belize Telecommunications Act (No. 16 of 2002), to clarify and expand certain provisions relating to the assumption of control over telecommunications by the Government in the public interest; and to provide for matters connected therewith or incidental thereto.

(Gazetted 4th July, 2011).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:-

1. This Act may be cited as the

Short title.

BELIZE TELECOMMUNICATIONS
(AMENDMENT)ACT, 2011,

212

Belize Telecommunications

[No. 8]

Act No. 16/02
29/05
9/09.

and shall be read and construed as one with the Belize Telecommunications Act which, as amended, is hereinafter referred to as the principal Act.

Amendment
of section 63.

2. Section 63 of the principal Act is hereby amended as follows:-

- (a) in subsection (1), by deleting the following words occurring at the end of that subsection:

“and every such order shall be *prima facie* evidence that the property to which it relates is required for a public purpose”;

- (b) in subsection (2), by substituting the words “As from the date of commencement” for the words “Upon publication in the Gazette”, occurring at the commencement of that subsection;

- (c) by repealing subsection (3) and replacing it by the following:-

“(3) Subject to section 71 of this Act, in every case where the Minister makes an Order under subsection (1) above, there shall be paid to the owner of the property that has been acquired by virtue of the said Order, reasonable compensation in accordance with the provisions of this Act within such time as the Supreme Court considers reasonable in all the circumstances”;

- (d) by repealing subsection (4) and replacing it by the following:-

“(4) Any person claiming an interest in or right over the acquired property shall have a right of access to the courts for the purpose of –

*No. 8J**Belize Telecommunications*

213

- (i) establishing his interest or right (if any);
 - (ii) determining whether that taking of possession or acquisition was duly carried out for a public purpose in accordance with this Act;
 - (iii) determining the amount of the compensation to which he may be entitled; and
 - (iv) enforcing his right to any such compensation.”;
- (e) by renumbering subsection (11) as subsection (13) and by inserting the following new subsections immediately after subsection (10):-

“(11) The Minister may make an Order under this section with retrospective effect.

(12) It shall not be necessary for the Minister to give the interested person(s) whose property is intended to be acquired an opportunity to be heard before making an Order under this section.”

3. Section 64 of the principal Act is hereby amended by renumbering subsection (3) thereof as subsection (5) and by inserting the following new subsections immediately after subsection (2):-

**Amendment
of section 64.**

“(3) All claims made pursuant to the notice of acquisition or otherwise shall be quantified by the claimant and shall show with facts and figures the basis of the amount claimed.

(4) The Financial Secretary may require the claimant to provide additional information and documents as he may consider necessary to verify the claims.”

Amendment
of section 67.

4. Section 67 of the principal Act is hereby amended in subsection (1) thereof by renumbering paragraph (f) as paragraph (h), and by inserting the following new paragraphs immediately after paragraph (e):

“(f) where the acquired property consists of shares or stock of a company, the Court shall, in assessing compensation, employ the generally accepted methodology for valuing companies, including the standard Discounted Cash Flow (DCF) method, and may call for expert evidence in this regard;

(g) where the property acquired consists of securities, such as a mortgagee’s or chargee’s or lender’s interest in the property, the value of the property for the purpose of compensation shall be deemed to be the book value of such security, subject to any challenge to the validity of the security and to any other impediments that may exist in the recovery of its full value.”

Repeal and
replacement
of section 71.

5. Section 71 of the principal Act is hereby repealed and replaced by the following:

Payment of
compensation
etc.

“71. (1) Subject to the provisions of this section, all amounts which have been awarded by way of compensation under this Act, including interest and costs to be paid by the Financial Secretary, and all other costs, charges and expenses which shall be incurred under the authority of this Act, shall be a charge on the Consolidated Revenue Fund of Belize and shall be paid within such time as the Court considers reasonable in all the circumstances.

*No. 81**Belize Telecommunications**215*

(2) The Financial Secretary shall be entitled to deduct from any compensation which may have been awarded such sums as are due to the Government as arrears of any taxes, duties and charges, and all other sums whatsoever, which are owed to the Government by the person entitled to compensation.

(3) Where the exigencies of public finance do not allow the immediate payment to the claimant of the compensation awarded by the Court, the Attorney General, representing the Minister of Finance, may apply to the Court for approval of a schedule of payments by instalments, provided that any such amortisation schedule shall not exceed a period of five years unless the claimant agrees.

(4) The compensation determined by the Court may be paid either in a sum of money or, subject to the approval of the Court, by the issue of Treasury Notes in the manner provided in subsection (5) of this section.

(5) Subject as aforesaid, the compensation may be paid by the issue to the claimant of one or more Treasury Notes to an amount equal to the amount of compensation, and any Treasury Note so issued shall —

- (a) be redeemable within a period not exceeding five years from the date of issue;
- (b) bear interest at the rate paid by commercial banks in Belize on fixed deposits at the date of acquisition; and

CAP. 83

(c) subject to paragraphs (a) and (b) above, be governed by the provisions of the Treasury Bills Act.

(6) Subject to the foregoing provisions of this section, the Court shall have the power to order the Minister of Finance to take all necessary steps to procure the payment of compensation to the claimant in the manner approved by the Court and the Court may make all necessary and consequential orders to enforce the claimant's right to all such compensation.

(7) Nothing in the foregoing provisions of this section shall preclude the claimant and the Financial Secretary from mutually agreeing to a different manner of payment of compensation, including, but not limited to, the conveyance to the claimant of land or other property of equivalent value, or the offsetting of compensation or part thereof against any future tax liability of the claimant; and in any such case, the Court may make a consent order to effectuate the agreement between the parties."

Addition of section 75.

6. The principal Act is hereby amended by the addition of the following new section immediately after section 74 in Part XII:-

Service of documents outside Belize.

"75. For the purposes of this Part *[dealing with assumption of control over telecommunications by the Government]*, any document (including a court process) required or intended to be served on a person outside Belize may be served by registered post or courier service, and for this purpose,

No. 8/

Belize Telecommunications

217

s.i. 75/05.

no leave of the Court for serving the document out of the jurisdiction shall be required notwithstanding anything to the contrary contained in the Supreme Court (Civil Procedure) Rules, 2005 or any other law or rule of practice.”

7. This Act shall take effect from the **25th day of August, 2009.** Commencement.

No. 70] *Belize Telecommunications* 1

BELIZE:

STATUTORY INSTRUMENT

No. 70 of 2011

ORDER made by the Minister responsible for telecommunications in exercise of the powers conferred upon him by section 63 of the Belize Telecommunications Act (No. 16 of 2002), as amended by the Belize Telecommunications (Amendment) Act 2009 (No. 9 of 2009), and the Belize Telecommunications (Amendment) Act, 2011 (No. 8 of 2011), and all other powers thereunto him enabling, and with the approval of the Minister of Finance.

(Gazetted 4th July, 2011.)

WHEREAS, section 63 of the Belize Telecommunications Act, as amended, provides, *inter alia*, that where the Minister (responsible for telecommunications) considers that control over telecommunications should be acquired for a public purpose, he may, with the approval of the Minister of Finance, by Order published in the Gazette, acquire for and on behalf of the Government, all such property as he may from time to time consider necessary to take possession of and to assume control over telecommunications;

AND WHEREAS, after a careful consideration of all the facts and circumstances, I consider that control over telecommunications should be acquired for the following public purposes, namely, (a) to restore the control of the telecommunications industry to Belizeans; (b) to provide

2

Belize Telecommunications

[No. 70

greater opportunities for investment to socially-oriented local institutions and the Belizean society at large; and (c) to advance the process of economic independence of Belize with a view to bringing about social justice and equality for the benefit of all Belizeans;

NOW, THEREFORE, in pursuance of the above objectives, it is hereby ordered as follows:

Short title.

1. This Order may be cited as the

BELIZE TELECOMMUNICATIONS (ASSUMPTION OF CONTROL OVER BELIZE TELEMEDIA LIMITED) ORDER, 2011.

Acquisition of property.
First Schedule.

2. The property specified in the First Schedule to this Order is hereby acquired for and on behalf of the Government of Belize for the public purposes aforesaid.

Interim Board of Directors.

3. Upon the commencement of this Order, the existing Boards of Directors of Belize Telemedia Limited (hereinafter referred to as "**Telemedia**") and all of its subsidiaries shall cease to function and the following provisions shall have effect:-

Second Schedule.

(a) the interim Board of Directors as set out in the Second Schedule to this Order shall manage and regulate the affairs of Telemedia and all of its subsidiaries from the date of commencement of this Order until the 31st January, 2011;

Third Schedule.

(b) the interim Board of Directors as set out in the Third Schedule to this Order shall manage and regulate the affairs of Telemedia and all of its subsidiaries from the 1st February 2011 until such time as new Boards of Directors can be appointed in accordance

No. 70]

Belize Telecommunications

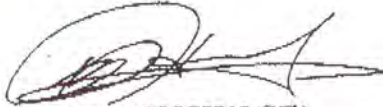
3

with the Articles of Association and the reconstituted capital structure of Telemedia and its subsidiaries.

4. This Order shall take effect from the 25th day of August, 2009.

Commencement

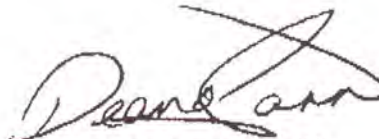
MADE by the Minister responsible for Telecommunications this 4th day of July, 2011.



(MELVIN HULSE)

Ag. Minister responsible for Telecommunications

APPROVED by the Minister of Finance this 4th day of July, 2011.



(DEAN O. BARROW)

Minister of Finance

4

Belize Telecommunications

[No. 70]

FIRST SCHEDULE**[Paragraph 2]****PART I****A - SHARES IN BELIZE TELEMEDIA LIMITED**

The following shares in Belize Telemedia Limited ("Telemedia") held by the persons shown in the statutory return for 2008 filed by Telemedia in the Belize Companies and Corporate Affairs Registry on or about the 5th January 2009:

<u>Name of Shareholder</u>	<u>Address</u>	<u>No. of Shares acquired</u>
1. BCB Holdings Limited	P. O. Box 1764, Belize City	1,234,859
2. BTL International Inc.	P. O. Box 71, Tortola, BVI	895,552
3. BTL Investments Limited	BTL, St. Thomas Street Belize City	750,000
4. ECOM Limited	P. O. Box 1764, 212 North Front St., Belize City	15,178,488
5. Mercury Communications Limited	P. O. Box 1764, 212 North Front St., Belize City	4,786,230
6. New Horizons Inc.	212 North Front St. Belize City	20,581

<i>No. 70]</i>	<i>Belize Telecommunications</i>		<i>5</i>
7.	Sunshine Holdings Limited	P. O. Box 1258, 212 North Front St., Belize City	11,092,844
8.	Thiermon Limited	212 North Front St., Belize City	<u>12,886,959</u>
Total number of Shares acquired			<u>46,845,513</u>

B – SHARES IN BTL DIGICELL LIMITED

<u>Name of Shareholder</u>	<u>Address</u>	<u>No. of Shares acquired</u>
Rocky Reef Ventures Limited	212 North Front St. Belize City	1

C – SHARES IN BUSINESS ENTERPRISE SYSTEMS LIMITED

<u>Name of Shareholder</u>	<u>Address</u>	<u>No. of Shares acquired</u>
Rocky Reef Ventures Limited	212 North Front St. Belize City	1

D – SHARES IN TELEMEDIA (FREE ZONE) LIMITED

<u>Name of Shareholder</u>	<u>Address</u>	<u>No. of Shares acquired</u>
Rocky Reef Ventures Limited	212 North Front St. Belize City	1

6 *Belize Telecommunications* [No. 70]

E – SHARES IN SUNSHINE HOLDINGS LIMITED

<u>Name of Shareholder</u>	<u>Address</u>	<u>No. of Shares acquired</u>
Dean Boyce	212 North Front St. Belize City	1
Trustees of the Belize Telecommunications Ltd Employees Trust	212 North Front St. Belize City	1

F – SHARES IN TELEMEDIA INVESTMENTS LIMITED

<u>Name of Shareholder</u>	<u>Address</u>	<u>No. of Shares acquired</u>
Rocky Reef Ventures Limited	212 North Front St. Belize City	1

*No. 70]**Belize Telecommunications*

7

PART II**OTHER PROPERTY ACQUIRED**

All proprietary and other interest held by **The Belize Bank (Turks and Caicos) Limited** (renamed British Caribbean Bank Limited) in Belize Telemedia Limited and its subsidiaries under a Mortgage Debenture dated the 31st December, 2007 (including any amendments thereto) executed between Belize Telemedia Limited as the Mortgagor and The Belize Bank (Turks and Caicos) Limited as the Mortgagee, and registered in the Companies and Corporate Affairs Registry, Belmopan, on or about the 8th February 2008;

All proprietary and other rights and interests whatsoever held by **The Belize Bank (Turks and Caicos) Limited** (renamed British Caribbean Bank Limited), under a Facility Agreement dated the 6th July 2007 executed between The Belize Bank (Turks and Caicos) Limited and Belize Telemedia Limited et al;

All proprietary and other rights and interests whatsoever held by The Belize Bank (Turks and Caicos) Limited (renamed British Caribbean Bank Limited), The Belize Bank Limited and CAEDMAN Limited under a Syndicated Loan Agreement dated September 19, 2005 executed between The Belize Bank (Turks and Caicos) Limited, The Belize Bank Limited, CAEDMAN Limited and Sunshine Holdings Limited;

All proprietary and other rights and interests whatsoever held by The Belize Bank (Turks and Caicos) Limited (renamed British Caribbean Bank Limited), under a Security Agreement dated September 19, 2005 executed between The Belize Bank (Turks and Caicos) Limited and Sunshine Holdings Limited;

All proprietary and other rights and interests whatsoever held by The Belize Bank (Turks and Caicos) Limited (renamed British Caribbean Bank Limited), under a Facility Agreement dated the 19th May 2006 executed between The Belize Bank (Turks and Caicos) Limited, Sunshine Holdings Limited and the Trustees of the Belize Telecommunications Ltd Employees Trust.

8 *Belize Telecommunications* [No. 70]

SECOND SCHEDULE [Paragraph 3]

**INTERIM BOARD OF DIRECTORS OF BELIZE TELEMEDIA
LIMITED AND ITS SUBSIDIARIES FROM 25th AUGUST 2009
TO 31ST JANUARY 2011**

<u>Name</u>	<u>Address</u>
1. Nestor Vasquez – Executive Chairman	P O Box 371 Belize City
2. Alan Slusher – Director	Office of the Prime Minister Belmopan
3. Audrey Wallace – Director	Office of the Prime Minister Belmopan
4. Ambrose Tillett – Director	8278 Cumberbatch Street Lake Independence Belize City
5. Anwar Barrow – Director	Quick Stop Personal Finance Center Capital Garden Plaza Belmopan
6. Col George Lovell – Director	Curl Thompson Building Belmopan
7. Rt Hon Manuel Esquivel - Director	Office of the Prime Minister Belmopan
8. Dr Carla Barnett – Director	467 Dolphin Drive P O Box 269 Belize City

No. 70j *Belize Telecommunications* *9*

THIRD SCHEDULE [Paragraph 3]

**INTERIM BOARD OF DIRECTORS OF BELIZE TELEMEDIA
LIMITED AND ITS SUBSIDIARIES FROM 1ST FEBRUARY 2011**

<u>Name</u>	<u>Address</u>
1. Nestor Vasquez -- Executive Chairman	P O Box 371 Belize City
2. Audrey Wallace -- Director	Office of the Prime Minister Belmopan
3. Ambrose Tillett -- Director	8278 Cumberbatch Street Lake Independence Belize City
4. Col George Lovell -- Director	Curl Thompson Building Belmopan
5. Rt Hon Manuel Esquivel -- Director	Office of the Prime Minister Belmopan
6. Dr Carla Barnett -- Director	467 Dolphin Drive P O Box 269 Belize City
7. Mr Ariel Mitchell -- Director	Mitchell Moody & Associates 22 St. Thomas Street Belize City
8. Mr Paul Jones -- Director	P O Box 2352 Belize City